

VARIANCE REQUEST FOR THE DALY ESTATES MAJOR SUBDIVISION

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER:

Benjamin H. Howell



REVIEWED &
APPROVED BY:

Renee Van Hoven



PUBLIC HEARINGS/
MEETINGS/DEADLINES:

RCPB Public Hearing:

February 15, 2006

Deadline for PB recommendation to BCC:

March 15, 2006

BCC meeting date:

9:00am

March 21, 2006

Deadline for BCC action (35 working days):

April 6, 2006

APPLICANT:

MOL, PPL
PO Box 747
Hamilton, MT 59840

REPRESENTATIVES:

Terry Nelson with Applebury Survey

LOCATION OF
REQUEST:

The property is located east of Hamilton off Tammany Lane. (See Map 1.)



Map 1: Location Map

(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Parcel B of COS 488828 located in the SW ¼ of Section 29 and the SE ¼ of Section 30, T6N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The variance application was determined sufficient on January 31, 2006. Interested agencies were notified of the variance, and agency comments received by the Planning Department that are not included in the application packet are Exhibits A-1 through A-2 of the staff report.

**LEGAL
NOTIFICATION:**

A legal advertisement was published in the Ravalli Republic on Tuesday, January 31, 2006. Notice of the project was posted on the property. Property owners adjacent to the property were notified of the variance by certified mail postmarked January 31, 2006. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Agriculture
South	Residential
East	Agriculture and Residential
West	Agriculture

RAVALLI COUNTY PLANNING BOARD

February 15, 2006

VARIANCE REQUEST FOR THE DALY ESTATES MAJOR SUBDIVISION

I. RECOMMENDED MOTION

That the variance request from Section 3-2-21(a)(4) of the Ravalli County Subdivision Regulations, to allow an extension of one year for the preliminary plat approval for the first phase, be *approved*, based on the findings of fact and conclusions of law in the staff report.

II. INTRODUCTION

The Daly Estates subdivision was approved as a two-phase subdivision on April 15, 2004. The deadline for the first phase to be filed is April 15, 2006, and the second phase must be filed by April 15, 2008. The developer is asking for a one-year extension to the filing deadline of the first phase, so that they may install a community water system permitted by the Department of Environmental Quality. The developer is not asking for an extension for the second phase. The Ravalli County Subdivision Regulations do not allow extensions for filing plats for phased subdivisions, so the developers have to ask for a variance to receive the extension.

Staff is recommending approval of the variance request.

III. VARIANCE REQUEST

The applicant has requested a variance from Section 3-2-21(a)(4) of the Ravalli County Subdivision Regulations to grant the developer a one-year extension to the filing deadline for the first phase.

Compliance with Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Finding of Fact:

1. The one-year extension will allow the first phase to be completed by April 15, 2007 instead of April 15, 2006.

Conclusion of Law:

The granting of the variance request will not affect the public health, safety or general welfare, or injurious to other adjoining properties.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Finding of Fact:

1. This subdivision was approved in 2004 and originally there was an agreement between the developers and the City of Hamilton for public water to be extended to the subdivision. The City withdrew from the agreement and the developers instead decided to construct a community water system. The DEQ permitting process for the community water system is delaying the project.

Conclusion of Law:

The conditions upon which the variance is requested are unique to the subject property.

C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

The property is relatively level, in a developed area.

Conclusions of Law:

There are no physical conditions such as topography or parcel shape preventing the applicant from meeting the Subdivision Regulations.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The property is not within a Zoning District.
2. No provisions in the Growth Policy address this variance.

Conclusions of Law:

1. Zoning does not apply to this property.
2. Provisions in the Growth Policy do not apply to this request.

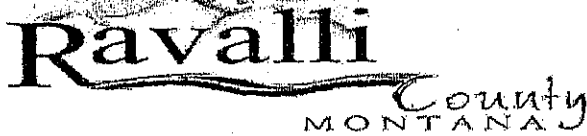
E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

The one-year extension will allow the first phase to be completed by April 15, 2007 instead of April 15, 2006.

Conclusion of Law:

Approval of the variance request will not adversely affect public costs.



REC 1

EXHIBIT A-1

FEB 08 2006
1C-06-01-204
Ravalli County Planning Dept.Planning Department
215 South 4th Street; Suite F
Hamilton, MT 59840
Phone 406.375.6530
Fax 406.375.6531
bhowell@ravalliacounty.mt.gov

OG-06-01-131

Date: January 30, 2006
To: Interested Agencies
From: Benjamin Howell, Planner I *BH*
Cc: Outgoing Correspondence File, Subdivision File
Enc: Reduced plat & vicinity map

Subject: Agency Comment on the Variance Request for The Daly Estates Subdivision

Ravalli County has received a variance application for a subdivision located east of Hamilton off Tammany Lane, as shown on the enclosed location map. The Daly Estates Subdivision has received conditional approval and the deadline for filing is April 15, 2006. The applicant wishes to extend the filing deadline for the first phase to April 15, 2007, and is requesting a variance from Section 3-2-21(a)(4) of the Ravalli County Subdivision Regulations. The applicant is MOI, PPL. A complete copy of the application packet is available for viewing at the Ravalli County Planning Department.

Variance Request: From Section 3-2-21(a)(4) of the Ravalli County Subdivision Regulations, which requires the applicant to file the plat for the first phase within two years of the preliminary plat decision.

A variance may be granted from the Subdivision Regulations when strict compliance with the regulations will result in undue hardship including substantial practical difficulty and when compliance is not essential to the public welfare. The variance application shall not be approved without an overall positive finding on the following:

1. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
2. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
3. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
4. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
5. The variance will not cause a substantial increase in public costs.

We are notifying you of this application to see if you have any thoughts or concerns about this variance request. Please notify us as soon as possible if you believe there will be negative impacts of the variance request when you review it against the criteria listed above. If you have ideas for ways to eliminate or minimize those concerns, please tell us those as well.

Please provide any comments you may have to the Planning Department by **February 6, 2006** so they can be incorporated into the staff report (see contact information in the heading). ***** The public hearing on this proposal is scheduled for **February 15, 2006** and all comments on the proposal must be received before the close of the public hearing in order for them to be considered by both the Planning Board and the Board of County Commissioners. ***If we do not receive a response before the close of the Planning Board's public hearing, it will be understood that you have no specific concerns about the proposal.***

Thank you in advance for your assistance.

*******If you have already provided comments on this variance request and would not like to make further comments, please check this box and return a copy of this letter to our office so we can check our files to be sure your comments have been included.**

☐ Comments previously provided, Name of agency THIS VARIANCE REQUEST DOES NOT IMPACT
THE HRFD 1/31/06 2/7/06

EXHIBIT A-2

Ben Howell

From: Rose, Sharon [shrose@mt.gov]
Sent: Tuesday, January 31, 2006 2:08 PM
To: Ben Howell
Subject: Daly Estates

Hi Ben.

FWP has no comments on the variance request for this subdivision.

Sharon

PS. We originally did a "no comment" letter on this one in 2002, and repeated that in 2004 to be consistent w/ the 2002 letter. (But if we were to review this one as a new one this year, we would suggest a short-form version of the wildlife covenants--to be consistent w/ how we are currently commenting on subdivisions.)

Sharon Rose
Comments coordinator
MT Fish, Wildlife & Parks
Region 2, 3201 Spurgin Rd, Missoula, MT 59804 Phone 406-542-5540 Fax 406-542-5529 Email shrose@mt.gov